

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NEAL A. COWE,

Plaintiff

vs.

C.A. No. 04-11520-RWZ

LYNCH, BREWER, HOFFMAN AND SANDS,  
Allis LYNCH, BREWER, HOFFMAN & FINK,  
COMMONWEALTH OF MASSACHUSETTS  
ADMINISTRATIVE CHIEF JUSTICE OF THE  
SUPERIOR COURT SUSAN DELVECCHIO,  
COMMONWEALTH OF MASSACHUSETTS  
OFFICIAL COURT REPORTER LILA MOREAU,  
SLOANE & WALSH, MITCHELL & DESIMONE,

Defendants

**MOTION TO DISMISS PLAINTIFF’S COMPLAINT BY DEFENDANTS  
COMMONWEALTH OF MASSACHUSETTS ADMINISTRATIVE CHIEF  
JUSTICE OF THE SUPERIOR COURT SUZANNE<sup>1</sup> DELVECCHIO**

Defendants Commonwealth of Massachusetts Administrative Chief Justice of the Superior Court Suzanne DelVecchio (hereinafter the “Commonwealth Defendants”) hereby move to dismiss Plaintiff’s Complaint as against them.<sup>2</sup> As grounds for this motion, the Commonwealth Defendants state that Plaintiff’s Complaint must be dismissed as against them because Plaintiff fails to articulate any claim that would entitle him to relief. Additionally, Plaintiff’s claims are barred by the applicable statute of limitations. The most recent of the actions about which Plaintiff complains took place in

<sup>1</sup> While the Complaint refers to Chief Justice DelVecchio as “Susan,” her name is actually Suzanne. Accordingly, this motion will refer to her as such.

<sup>2</sup> It is not clear from Plaintiff’s Complaint whether the “Commonwealth of Massachusetts Administrative Chief Justice of the Superior Court Suzanne DelVecchio” is a reference to one defendant or two. Accordingly, this motion is on behalf of both the Commonwealth of Massachusetts and Chief Justice DelVecchio.

1999. Giving a broad reading to Plaintiff's allegations, the most conceivable cause of action he could be alleging is a vague civil rights violation. The applicable statute of limitations, therefore, required Plaintiff to have filed this Complaint by 2002, at the latest. Additionally, Plaintiff's claims against the Commonwealth Defendants must be dismissed because Chief Justice DelVecchio is entitled to judicial immunity. Further, Plaintiff's claims against the Commonwealth Defendants must be dismissed because they are barred by the Rooker-Feldman doctrine, which precludes federal courts from reviewing final decisions of state courts. Finally, the Eleventh Amendment to the United States Constitution bars Plaintiff's claims against the Commonwealth Defendants and requires the dismissal of those claims.

WHEREFORE, the Commonwealth Defendants move that the claims against them be dismissed. A memorandum of law is submitted in support of this motion.

Respectfully submitted,

COMMONWEALTH OF  
MASSACHUSETTS ADMINISTRATIVE  
CHIEF JUSTICE OF THE TRIAL COURT  
SUZANNE DELVECCHIO,

By their attorneys,  
THOMAS F. REILLY  
ATTORNEY GENERAL

/s/ Sarah M. Joss  
Sarah M. Joss, BBO #651856  
Assistant Attorney General  
Trial Division  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200 x 3308

Dated: November 15, 2004

**CERTIFICATE OF SERVICE**

I, Sarah M. Joss, Assistant Attorney General, hereby certify that I have this day, November 15, 2004, served the foregoing document upon the parties, by mailing a copy, first class, postage prepaid to:

1. Neal A. Cowe  
1393 Briar Ridge Ct.  
Jonesboro, GA 30238
2. Alan R. Hoffman, Esq.  
Lynch, Brewer, Hoffman & Fink, LLP  
101 Federal Street, 22nd Floor  
Boston, MA 02110
3. Bruce T. Macdonald, Esq.  
678 Massachusetts Avenue  
Suite 901  
Boston, MA 02139
4. Myles W. McDonough, Esq.  
Sloan & Walsh  
8th Floor  
Three Center Plaza  
Boston, MA 02108
5. Paul E. Mitchell, Esq.  
Mitchell & DeSimone  
99 Summer Street  
Boston, MA 02110

/s/ Sarah M. Joss  
Sarah M. Joss  
Assistant Attorney General